

A State-By-State Examination of the Parental Rights of Fathers Who Conceive a Child by Rape

In most states, a rapist can assert, or attempt to assert, parental rights over his rape-conceived child, forcing the mother-victim to continually confront her attacker in court or throughout the child's life. This possibility presents a multitude of problems for the roughly 32,000 women who give birth to children conceived by rape per year. *See* Melissa M. Holmes et al., *Rape-Related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women*, 175 Am. J. Obstetrics & Gynecology 320, 320 (1996). For a more in-depth examination of those problems, please see the following two law review articles: 1) Shauna R. Prewitt, *Giving Birth to a "Rapist's Child": A Discussion and Analysis of the Limited Legal Protections Afforded to Women Who Become Mothers Through Rape*, 98 Geo. L.J. 827 (2010); and 2) Kara N. Bitar, *The Parental Rights of Rapists*, 19 Duke J. of Gender L. and Policy 275 (2012).

The chart below distills the statutory law and attendant case law (where it exists and is relevant) of the states that directly address or limit the parental rights of a rapist who conceived a child by sexually assaulting the mother. Thirty-two states have enacted some sort of legislation to limit the parental rights of rapist-fathers. Those laws can generally be categorized in four ways: 1) adoption statutes; 2) termination-of-parental-rights statutes; 3) custody statutes; and 4) visitation statutes. Twenty of those statutes require that the father be convicted of a sex-based crime that resulted in the conception of the child before the statute takes effect. The other 12 states addressing the issue do not require a previous conviction.

Even when states do not specifically address whether a father's parental rights are limited because he caused the conception of the child by raping the mother, other domestic relations statutes may apply that afford victims of rape protection—though very limited—against the rapist who is asserting parental rights. For example, many states have enacted statutes that deny custody or visitation to people who are required to register on the state's sex registry. An Arkansas statute, for instance, denies a person the right to visitation or custody of a child if that person is required to register as a sex offender, unless the court specifically finds that the offender poses no danger to the child. *See* Ark. Code Ann. § 9-13-101(d)(1) (Lexis current through the 2012 Fiscal Sess. and updates). Under statutes such as this one, even if no statute existed to terminate the parental rights of a rapist, he would likely be denied custody or visitation to a child conceived as a result of rape if, as a consequence of the conviction, he was required to register as a sex offender.

Similarly, in an adoption proceeding or a proceeding to terminate parental rights, courts are given discretion under the best-interest-of-the-child or other multi-factor tests to base their decisions on factors such as whether the father was convicted of a crime. For example, in a proceeding to terminate parental rights in Alabama, the court can consider any number of factors, but must consider whether the parent has been convicted of and imprisoned for the commission of a felony. *See* Ala. Code § 12-15-319(a)(4) (Lexis current through 2012 Reg. Sess. and First Spec. Sess.); Similarly, a Colorado statute allows the court to terminate parental rights if it finds by clear and convincing evidence that the parent is "unfit" based on factors such as a "history of violent behavior." *See* Colo. Rev. Stat. § 19-5-105(3.1)(a) (Lexis current through all laws passed at the Second Reg. and First Extraordinary Sess. of the Sixty-Eighth Gen. Assembly of the St. of Colo. 2012); Mass. Gen. Laws ch. 209C § 10(e) (Lexis current through Acts 464 of the 2012 Legis. Sess.) (a court's finding that a parent engaged in a "serious incident of abuse"—including an involuntarily sexual relation by force—creates a rebuttable presumption that custody with the abusive parent is not in the best interests of the child). Therefore, in many states a judge could terminate the parental rights of a father, or deny him custody, based on proof—through a conviction or otherwise—that he raped the mother.

Many states also refuse to give fathers parental rights based on his abandoning the mother or child. Indeed, in Arizona a termination of parental rights can be based on abandonment of the child, defined as the "failure of a parent to provide reasonable support and to maintain regular contact with the child." *See* Ariz. Rev. Stat. Ann. §§ 8-533(B)(1), 8-531 (Lexis current through Fiftieth Legis., 2nd Reg. Sess., All 2012 Legis.); *see also* Ga. Code Ann. § 19-8-10(a)(1) (Lexis current through the 2012 Reg. Sess.) (allowing an adoption petition to proceed without a prerequisite surrender or termination of parental rights when the parent abandoned the

child). Ostensibly, this statute would allow a mother who gave birth to a child conceived by rape to terminate the father-rapist's parental rights if the father-rapist failed to previously establish a parent-child relationship.

Finally, some states deny a putative father notice or the right to be a party of a termination proceeding if he does not fall within one of the designated categories of fathers entitled to notice. For instance, in Kentucky, only putative fathers who fall within one of one of six categories, including those whose names are affixed to the birth certificate and those married to the mother, are entitled to be parties to a termination proceeding; all others have no parental rights. *See* Ky. Rev. Stat. § 625.065(1)-(2) (Lexis current through the 2012 First Extraordinary Sess.); *see also* Minn. Stat. § 260C.151(2a) (Lexis current through the 202 Reg. Sess. and Special Sess.) (listing the categories putative fathers who are entitled to notice of a proceeding terminating their parental rights). Under statutes such as these, a mother who seeks to terminate the father-rapist's parental rights may be able to do so without getting the father involved because the circumstances of his paternity do not allow him to contest the termination.

Though the foregoing statutes might afford some redress for a mother-victim whose rapist is asserting parental rights, they by no means provide that mother with adequate protection from a rapist-father who insists on intruding into her life via his paternity. But, the existence of statutes such as these could be used to support arguments made by opponents of statutes that would more meaningfully limit the parental rights of rapists.

State	Statute(s)	Statutory Language	Type of Statute	Conviction Required?	Burden of Proof	Case Law
Alabama	None.					
Alaska	Alaska Stat. § 25.23.180(c)(3) (Lexis current through the 2012 Reg. Sess. and the Third Spec. Sess. of the Twenty-Seventh St. Legis.).	(c) The relationship of parent and child may be terminated by a court order issued in connection with a proceeding under this [Adoption] chapter. . . on the grounds. . . (3) that the parent committed an act constituting sexual assault or sexual abuse of a minor under the laws of this state or a comparable offense under the laws of the state where the act occurred that resulted in conception of the child and that termination of the parental rights of the biological parent is in the best interests of the child.	Adoption.	No.	Clear and convincing evidence. <i>In re Adoption of A.F.M.</i> , 15 P.3d 258, 262 (Alaska 2001).	The Alaska Supreme Court affirmed the adoption decree, finding that the putative father's consent was not required when the evidence showed that he raped the mother, as defined by Washington law (where the rape occurred): the mother's custody-proceeding testimony, affidavit, and video deposition proved by clear and convincing evidence that the child was conceived as a result of rape. <i>See A.F.M. v. D.M.</i> , 15 P.3d 258, 262 (Alaska 2001).
Arizona	None.					
Arkansas	None.					
California	Cal. Fam. Code Ann. § 3030(b) (Lexis current through the 2013 Supp.).	(b) No person shall be granted custody of, or visitation with, a child if the person has been convicted under Section 261 of the Penal Code [rape or unlawful intercourse] and the child was conceived as a result of that violation.	Custody.	Yes.		
Colorado	None.					
Connecticut	Conn. Gen. Stat. § 45a-717(g)(2)(G) (Lexis current through 2011 legis. (2012 Supp.)).	(g) . . . [T]he court may approve a petition terminating the parental rights. . . if it finds, upon clear and convincing evidence, that (1) the termination is in the best interest of the child, and (2) . . . (G) the parent was convicted as an adult or a delinquent by a court of competent jurisdiction of sexual assault resulting in the conception of a child except for a violation of section 53a-71 or 53a-73a provided the court may terminate such parent's parental rights to such child at any time after such conviction.	Termination of parental rights.	Yes.	Clear and convincing evidence. Conn. Gen. Stat. § 45a-717(g)(2)(G) (Lexis current through 2011 legis. (2012 Supp.)).	
	Conn. Gen. Stat. § 17a-111b(a)-(b) (Lexis current through 2011 legis. (2012 Supp.)).	(a) The Commissioner of Children and Families shall make reasonable efforts to reunify a parent with a child unless the court (1) determines that such efforts are not required pursuant to subsection (b) of this section or subsection (j) of section 17a-112, or (2)[.] (b) The Commissioner of Children and Families or any other party may, at any time, file a motion with the court for a determination that reasonable efforts to reunify the parent with the child are not required. The court shall hold an evidentiary hearing on the motion not later than thirty days after the filing of the motion or may consolidate the hearing with a trial on a petition to terminate parental rights pursuant to section 17a-112. The court may determine that such efforts are	Termination of parental rights.	Yes.	Clear and convincing evidence. Conn. Gen. Stat. § 17a-111b(b) (Lexis current through 2011 legis. (2012 Supp.)).	

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		not required if the court finds upon clear and convincing evidence that: . . . (4) the parent was convicted by a court of competent jurisdiction of sexual assault, except a conviction of a violation of section 53a-71 or 53a-73a [sexual assault in the second and third degree] resulting in the conception of the child.				
	Conn. Gen. Stat. § 17a-112(j) (Lexis current through 2011 legis. (2012 Supp.)).	(j) The Superior Court, upon notice and hearing as provided in sections 45a-716 and 45a-717, may grant a petition filed pursuant to this section [termination of parental rights] if it finds by clear and convincing evidence that (1) the Department of Children and Families has made reasonable efforts to locate the parent and to reunify the child with the parent in accordance with subsection (a) of section 17a-111b, . . . except that such finding is not required if the court has determined at a hearing pursuant to section 17a-111b, or determines at trial on the petition, that such efforts are not required, (2) termination is in the best interest of the child, and (3) . . . (G) the parent was convicted as an adult or a delinquent by a court of competent jurisdiction of a sexual assault resulting in the conception of the child, except a conviction for a violation of section 53a-71 or 53a-73a [sexual assault in the second and third degree], provided the court may terminate such parent's parental rights to such child at any time after such conviction.	Termination of parental rights.	Yes.	Clear and convincing evidence. Conn. Gen. Stat. § 17a-112(j) (Lexis current through 2011 legis. (2012 Supp.)).	
Delaware	None.					
Florida	None.					
Georgia	None.					
Hawaii	None.					
Idaho	Idaho Code Ann. § 16-2005(2)(a)(3) (Lexis current through the 2012 Reg. Sess.).	(2) The court may grant an order terminating the relationship and may rebuttably presume that such termination of parental rights is in the best interests of the child where: (a) The parent caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child under the age of sixteen (16) years, or sexual abuse of a child under the age of sixteen (16) years[.] (3) The court may grant an order terminating the relationship if termination is found to be in the best interest of the parent and child.	Termination of parental rights.	No.	Clear and convincing evidence. Idaho Code Ann. § 16-2009 (Lexis current through the 2012 Reg. Sess.).	

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	Idaho Code Ann. § 16-1504 (3) (Lexis current through the 2012 Reg. Sess.).	(3) An unmarried biological father whose consent is required under subsection (1) or (2) of this section may nevertheless lose his right to consent if the court determines, in accordance with . . . sections 16-2001 through 16-2015 [see above], Idaho Code, that his rights should be terminated[.]	Adoption.	N/A.		
Illinois	§ 750 Ill. Comp. Stat. 50/8(a) (Lexis current through Public Act 97-1136 of the 2012 Legis. Sess.).	(a) Except as hereinafter provided in this Section consents or surrenders shall be required in all cases, unless the person whose consent or surrender would otherwise be required shall be found by the court. . . (5) to be the father of the child as a result of criminal sexual abuse or assault. . . A criminal conviction . . . is not required.	Adoption.	No.		
Indiana	Ind. Code § 31-19-9-8(a)(4)(A)-(D) (Lexis current through Act P.L. 161 of the 2012 Second Reg. Sess.).	(a) Consent to adoption, which may be required under section 1. . . of this chapter, is not required from any of the following: . . . (4) the biological father of a child born out of wedlock who was conceived as a result of: (A) a rape for which the father was convicted . . . ; (B) child molesting. . . ; (C) sexual misconduct with a minor. . . ; or (D) incest.	Adoption.	Yes.	<p>2. (a) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under: (1) IC 31-19-9-8(a)(1)[,] . . . and the parent files a motion to contest the adoption . . . a petitioner for adoption has the burden of proving that the parent's consent to the adoption is unnecessary under IC 31-19-9-8.</p> <p>(b) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under[] (1) IC 31-19-9-8(a)(4)(B) [] or (2) IC 31-19-9-8(a)(4)(C) [because the child was conceived as a result of child molesting or sexual misconduct with a minor][,] and the parent files a motion to contest the adoption. . . , the parent has the burden of proving that the child was not conceived under circumstances that would cause the parent's consent to be unnecessary under IC 31-19-9-8(a)(4). The absence of a criminal prosecution and conviction is insufficient to satisfy the burden of proof.</p> <p>Ind. Code § 31-19-10-1.2(a)-(b) (Lexis current through 2012 Second Reg. Sess.).</p> <p>The party bearing the burden of proof in a proceeding under this chapter must prove the party's case by clear and convincing evidence. Ind. Code § 31-19-10-0.5 (Lexis current through 2012 Second Reg. Sess.).</p>	Under § 31-19-9-8(a)(4)(C), father's consent was not necessary in an adoption proceeding when he failed to prove by clear and convincing evidence that the child was not conceived as a result of sexual misconduct with a minor. <i>See Lucas v. C.F.K.</i> , 867 N.E.2d 252 (Ind. App. 2007).
Iowa	Iowa Code § 600A.6(1) (Lexis current through the 2011 Supp. (2011 Legis.)).	1. A termination of parental rights under this chapter shall . . . be ordered only after notice has been served on. . . any unknown putative father, if any, except a biological parent who has been convicted of having sexually abused the other biological parent	Termination of parental rights.	Yes.	Clear and convincing proof. Iowa Code § 600A.8 (Lexis current through the 2011 Supp. (2011 Legis.)).	

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		while not cohabiting with that parent as husband and wife, thereby producing the birth of the child who is the subject of the termination proceedings.				
Kansas	Kan. Stat. Ann. § 59-2136(h)(1)(F) (Lexis current through the 2011 Supp.).	(h) (1) When a father or alleged father appears and asserts parental rights, the court shall determine parentage, if necessary pursuant to the Kansas parentage act. If a father desires but is financially unable to employ an attorney, the court shall appoint an attorney for the father. Thereafter, the court may order that parental rights be terminated, upon a finding by clear and convincing evidence, of any of the following: . . . (F) the birth of the child was the result of rape of the mother[.]	Termination of parental rights/Adoption.	No.	Clear and convincing evidence. Kan. Stat. Ann. § 59-2136(h)(1)(F) (Lexis current through the 2011 Supp.).	Judgment in a father's juvenile proceeding acquitting him of a rape charge did not preclude grandmother from seeking to terminate the father's parental rights in an adoption proceeding under Kan. Stat. Ann. § 59-2136 as the adoption proceeding required a lower burden of proof. <i>In re Adoption of S.A.M.</i> , 147 P.3d 158 (Ky. 2006). Rape under Kan. Stat. Ann §2136(h)(1)(F) refers to conduct that would be criminal under Kan. Stat. Ann. § 21-3502. Also, in stepparent adoptions where §59-2136(d) is applicable (the child has a presumed father), the provisions of §59-2136(h) (where father asserts parental rights) are not applicable. But in a stepparent adoption case where § 59-2136(d) is not applicable, the provisions of §59-2136(h) must be applied. <i>See In re Adoption of C.A.T.</i> , 273 P.3d 813 (Ky. App. 2012).
Kentucky	None.					
Louisiana	La. Civ. Code art. 137(A) (Lexis current through the 2012 Reg. Sess. 2012).	A. In a proceeding in which visitation of a child is being sought by a parent, if the child was conceived through the commission of a felony rape, the parent who committed the felony rape shall be denied visitation rights and contact with the child.	Visitation.	No.		
Maine	19-A Me. Rev. Stat. Ann. § 1658 (Lexis current through Legislation through the Second Reg. Sess. of the 125th Legis.).	The parental rights and responsibilities with respect to a specific child of a parent convicted of a crime involving the sexual intercourse that resulted in the conception of that child may be terminated in accordance with this section.	Termination of parental rights.	Yes.	Preponderance of the evidence. 19-A Me. Rev. Stat. Ann. § 1658.3 (Lexis current through Legislation through the Second Reg. Sess. of the 125th Legis.).	
Maryland	None.					
Massachusetts	None.					
Michigan	Mich. Comp. Laws § 722.25(2) (Lexis current through 2012 P.A. 1-260, 283, 296, 305).	(2) Notwithstanding other provisions of this act, if a child custody dispute involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct . . . the court shall not award custody to the convicted biological parent. This subsection does not apply to a conviction under section. . . 750.520d [criminal sexual	Custody.	Yes.		

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		conduct in the third degree]. . . . This subsection does not apply if, after the date of the conviction, the biological parents cohabit and establish a mutual custodial environment for the child.				
	Mich. Comp. Laws § 722.27a(4) (Lexis current through 2012 P.A. 1-260, 283, 296, 305).	(4) Notwithstanding other provisions of this act, if a proceeding regarding parenting time involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual . . . the court shall not grant parenting time to the convicted biological parent. This subsection does not apply to a conviction under section . . . 750.520d [criminal sexual conduct in the third degree of the Michigan Compiled Laws. . . . This subsection does not apply if, after the date of the conviction, the biological parents cohabit and establish a mutual custodial environment for the child.	Visitation.	Yes.		
Minnesota	None.					
Mississippi	None.					
Missouri	Mo. Rev. Stat. § 211.447.5-.6 (Lexis current through acts from the 96th Gen. Assembly, 2nd Reg. Sess., 2012).	<p>5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist: . . . (5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights[.]</p> <p>6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection . . . 5 of this section.</p>	Termination of parental rights.	No.	Clear, cogent, and convincing evidence. Mo. Rev. Stat. § 211.447.6 (Lexis current through acts from the 96th Gen. Assembly, 2nd Reg. Sess., 2012).	
	Mo. Rev. Stat. § 453.040 (1) (Lexis current through acts from the 96th Gen. Assembly, 2nd Reg. Sess., 2012).	The consent to the adoption of a child is not required of: (1) A parent whose rights with reference to the child have been terminated pursuant to law, including section 211.444 . . . or other similar laws in other states[.]	Adoption.	N/A.	N/A.	

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Montana	Mont. Code Ann. § 41-3-609(1)(c) (Lexis current through the 2011 reg. and spec. sess.).	(1) The court may order a termination of the parent-child legal relationship upon a finding established by clear and convincing evidence, except as provided in the federal Indian Child Welfare Act, if applicable, that any of the following circumstances exist: . . . (c) the parent is convicted of a felony in which sexual intercourse occurred or is a minor adjudicated a delinquent youth because of an act that, if committed by an adult, would be a felony in which sexual intercourse occurred and, as a result of the sexual intercourse, the child is born[.]	Termination of parental rights.	Yes.	Clear and convincing evidence. Mont. Code Ann. § 41-3-609(1) (Lexis current through the 2011 reg. and spec. sess.).	
Nebraska	Neb. Rev. Stat. § 43-104.15 (Lexis current through the 2012 102nd Second Sess.).	If the information provided in the biological mother's affidavit . . . presents clear evidence that providing notice [of the right to execute a relinquishment and consent to adoption or a denial of paternity and waiver of rights] to a biological father or possible biological father would be likely to threaten the safety of the biological mother or the child or that conception was the result of sexual assault or incest, notice is not required to be given. If the biological father or possible biological fathers are not given actual or constructive notice prior to the time of placement, the agency or attorney shall give the adoptive parents a statement of legal risk indicating the legal status of the biological father's parental rights as of the time of placement, and the adoptive parents shall sign a statement of legal risk acknowledging their acceptance of the placement, notwithstanding the legal risk.	Adoption.	No.	Clear evidence. Neb. Rev. Stat. § 43-104.15 (Lexis current through the 2012 102nd Second Sess.).	
Nevada	Nev. Rev. Stat. § 125C.210.1-.2 (Lexis current through the 76th (2011) Reg. Sess.).	1. [I]f a child is conceived as the result of a sexual assault and the person convicted of the sexual assault is the natural father of the child, the person has no right to custody of or visitation with the child unless the natural mother or legal guardian consents thereto and it is in the best interest of the child. 2. The provisions of subsection 1 do not apply if the person convicted of the sexual assault is the spouse of the victim at the time of the sexual assault. If the persons later divorce, the conviction of sexual assault creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the sexual assault is not in the best interest of the child. The court shall set forth findings that any custody or visitation arrangement ordered by the court adequately protects the child and the victim of the sexual assault.	Custody.	Yes.		

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New Hampshire	None.					
New Jersey	N.J. Stat. Ann. § 9:2-4.1.a.-d (Lexis current through New Jersey 215th Leg.). Look up to see if this citation format is correct.	<p>a. Notwithstanding any provision of law to the contrary, a person convicted of sexual assault under N.J.S. 2C:14-2 [aggravated sexual assault or N.J.S. 2C:14-3 or aggravated sexual contact] shall not be awarded the custody of or visitation rights to any minor child, including a minor child who was born as a result of or was the victim of the sexual assault, except upon a showing by clear and convincing evidence that it is in the best interest of the child for custody or visitation rights to be awarded. However, a court that awards such custody or visitation rights to a person convicted of sexual assault under N.J.S. 2C:14-2 [or N.J.S. 2C:14-3] shall stay enforcement of the order or judgment for at least 10 days in order to permit the appeal of the order or judgment and application for a stay in accordance with the Rules of Court.</p> <p>c. A denial of custody or visitation under this section shall not by itself terminate the parental rights of the person denied visitation or custody, nor shall it affect the obligation of the person to support the minor child.</p> <p>d. In any proceeding for establishment or enforcement of such an obligation of support the victim shall not be required to appear in the presence of the obligor and the victim's and child's whereabouts shall be kept confidential.</p>	Custody.	Yes.		
New Mexico	N.M. Stat. § 32A-5-19(C) (Lexis current through the Second Sess. of the Fiftieth Legis.).	The consent to adoption or relinquishment of parental rights required pursuant to the provisions of the Adoption Act . . . shall not be required from: . . . C. a biological father of an adoptee conceived as a result of rape or incest[.]	Adoption.	No.	Clear and convincing evidence or beyond a reasonable doubt if adoption proceeding brought involves an Indian child. N.M. Stat. § 32A-5-16(A) (Lexis current through the Second Sess. of the Fiftieth Legis.).	
New York	N.Y. Dom. Rel. Law § 111-a(1) (Lexis current through 2012 released chapters 1-491).	1. . . .For the purpose of determining persons entitled to notice of adoption proceedings initiated pursuant to this article, persons [entitled to notice] shall not include any person who has been convicted of rape in the first degree involving forcible compulsion, under subdivision one of section 130.35 of the penal law, when the child who is the subject of the proceeding was conceived as a result of such rape.	Adoption.	Yes.	When bringing an adoption proceeding or proceeding to revoke adoption consent, “1 . . . there shall be shown by the petition or by affidavit or other proof satisfactory to the court that there are no persons other than those set forth in the petition who are entitled to notice.” N.Y. Dom. Rel. Law § 111-a(1) (Lexis current through 2012 released chapters 1-491).	

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North Carolina	N.C. Gen. Stat. § 14-27.2(c) (Lexis current through the 2012 Reg. Sess.).	(c) Upon conviction, a person convicted under this section [first-degree rape] has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 [adoptions] or Subchapter 1 of Chapter 7B [Juvenile Code] of the General Statutes.	Criminal.	Yes.	Beyond a reasonable doubt.	
	N.C. Gen. Stat. § 14-27.3(c) (Lexis current through the 2012 Reg. Sess.).	(c) Upon conviction, a person convicted under this section [second-degree rape] has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 [adoptions] or Subchapter 1 of Chapter 7B of the General Statutes [Juvenile Code].	Criminal.	Yes.	Beyond a reasonable doubt.	
	N.C. Gen. Stat. § 7B-1111(a)(11) (Lexis current through the 2012 Reg. Sess.).	(a) The court may terminate the parental rights upon a finding of one or more of the following: . . . (11) The parent has been convicted of a sexually related offense under Chapter 14 [see above two statutes] of the General Statutes that resulted in the conception of the juvenile.	Termination of parental rights.	Yes.	The burden in such proceedings shall be upon the petitioner or movant to prove the facts justifying such termination by clear and convincing evidence. N.C. Gen. Stat. § 7B-1111(b) (Lexis current through the 2012 Reg. Sess.).	
	N.C. Gen. Stat. § 50-13.1(a) (Lexis current through the 2012 Reg. Sess.).	(a) . . . Any person whose actions resulted in a conviction under G.S. 14-27.2 or G.S. 14-27.3 [see above] and the conception of the minor child may not claim the right to custody of that minor child. Unless a contrary intent is clear, the word "custody" shall be deemed to include custody or visitation or both.	Custody/Visitation.	Yes.		
North Dakota	None.					
Ohio	Ohio Rev. Code Ann. § 3107.07(F) (Lexis current through Legis. passed by the 129th Ohio Gen. Assembly).	Consent to adoption is not required of any of the following: . . . (F) The father, or putative father, of a minor if the minor is conceived as the result of the commission of rape by the father or putative father and the father or putative father is convicted of or pleads guilty to the commission of that offense.	Adoption.	Yes.		
	Ohio Rev. Code Ann. § 3107.11(A) (Lexis current through Legis. passed by the 129th Ohio Gen. Assembly).	(A). . . Notice [of the adoption hearing] shall not be given to a person whose consent is not required as provided by division . . . (F). . . of section 3107.07[.]	N/A.	N/A.		
Oklahoma	Okla. Stat. tit. 10A, § 1-4-904(B)(8), (B)(11) (Lexis current through Ch. 370	B. The court may terminate the rights of a parent to a child based upon the following legal grounds: . . . 8. A finding that the parent has been convicted in a court of	Termination of parental rights.	No.	Clear and convincing evidence. <i>In re R.A.</i> , 280 P.3d 366, 369 (Okla. App.).	

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	(End) of the Second Reg. Sess. of the 53rd Legis. (2012)).	competent jurisdiction in any state of . . . rape, or rape by instrumentation[;] [or] 11. A finding that the child was conceived as a result of rape perpetrated by the parent whose rights are sought to be terminated.				
Oregon	Or. Rev. Stat. § 419B.510(1)-(3) (Lexis current through the 2011 Legis. Sess.).	(1) The rights of the parent may be terminated as . . . if the court finds that the child. . . was conceived as the result of an act that led to the parent's conviction for rape[.] (2) Termination of parental rights under subsection (1) of this section does not relieve the parent of any obligation to pay child support. (3) Termination of parental rights under subsection (1) of this section is an independent basis for termination of parental rights and the court need not make any of the considerations or findings described in ORS 419B.502, 419B.504, 419B.506 or 419B.508.	Termination of parental rights.	Yes.	Clear and convincing evidence. Or. Rev. Stat. § 419B.521(1) (Lexis current through the 2011 Legis. Sess.).	
	Or. Rev. Stat § 107.137(5)(a)-(b) (Lexis current through the 2011 Legis. Sess.).	(5)(a) The court determining custody of a minor child. . . shall not award sole or joint custody of the child to a parent if: (A) The court finds that the parent has been convicted of rape under ORS 163.365 or 163.375 or other comparable law of another jurisdiction; and (B) The rape resulted in the conception of the child. (b) A denial of custody under this subsection does not relieve the parent of any obligation to pay child support.	Custody.	Yes.		
Pennsylvania	23 Pa. Consol. Stat. Ann. § 2511(a)(7) (Lexis current through 2012 Reg. Sess. Act 147, Enacted Oct. 8, 2012).	(a) . . . The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds: . . . (7) The parent is the father of a child conceived as a result of a rape or incest.	Termination of parental rights.	No.	Clear and convincing evidence. <i>In re J.L.C.</i> , 837 A.2d 1247, 1251(Pa. Super. 2003).	
	23 Pa. Consol. Stat. Ann. § 2714 (Lexis current through 2012 Reg. Sess. Act 147, Enacted Oct. 8, 2012).	Consent of a parent to adoption shall not be required if a decree of termination with regard to such parent has been entered. When parental rights have not previously been terminated, the court may find that consent of a parent of the adoptee is not required if, after notice and hearing . . . , the court finds that grounds exist for involuntary termination under section 2511 (relating to grounds for involuntary	Adoption.	No.		

State	Statute(s)	Statutory Language	Type of Statute	Conviction Required?	Burden of Proof	Case Law
		termination).				
Rhode Island	None.					
South Carolina	S.C. Code Ann. § 63-9-320(A)(3) (Lexis current through all Legis. enacted in the 2011 Sess.).	(A) Notwithstanding the provisions of Section 63-9-310 [persons who must give consent or relinquishment], consent or relinquishment for the purpose of adoption is not required of the following persons: . . . (3) the biological parent of a child conceived as a result of that parent's criminal sexual conduct or incest as found by a court of competent jurisdiction unless, with respect to a conviction for criminal sexual conduct, the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct where neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.	Adoption.	Yes.		
	S.C. Code Ann. § 63-9-730(C) (Lexis current through End of 2012 Reg. Sess.).	(C) Persons specified in subsection (B) of this section [persons entitled to notice of adoption proceedings] are not entitled to notice if the child who is the subject of the adoption proceeding as conceived as a result of criminal sexual conduct or incest.	Adoption.	Yes.		
South Dakota	S.D. Codified Laws § 25-6-4(6A) (Lexis current through all 2012 legis. passed at the 87th Reg. Sess.).	No child may be adopted without the consent of the child's parents. However, if it is in the best interest of the child, the court may waive consent from a parent or putative father who: . . . (6A) Has caused the child to be conceived as a result of rape or incest[.]	Adoption.	No.		
	S.D. Codified Laws § 25-4A-20 (Lexis current through all 2012 legis. passed at the 87th Reg. Sess.).	If it is in the best interest of the child, the court may prohibit, revoke, or restrict visitation rights to a child for any person who has caused the child to be conceived as a result of rape or incest.	Visitation.	No.		
Tennessee	Tenn. Code Ann. § 36-1-113(g)(10) (Lexis through the 2012 Reg. Sess.).	(g) Initiation of termination of parental or guardianship rights may be based upon any of the grounds listed in this subsection (g). The following grounds are cumulative and non-exclusive, so that listing conditions, acts or omissions in one ground does not prevent them from coming within another ground: . . . (10) The parent has been convicted of aggravated rape pursuant to § 39-13-502 or rape pursuant to § 39-13-503, from which the child was conceived.	Adoption.	No.	Clear and convincing evidence. Tenn. Code Ann. § 36-1-113(c)(1) (Lexis through the 2012 Reg. Sess.).	

State	Statute(s)	Statutory Language	Type of Statute	Conviction Required?	Burden of Proof	Case Law
	Tenn. Code Ann. § 37-1-147(a) (Lexis current through the 2012 Reg. Sess.).	(a) The juvenile court shall be authorized to terminate the rights of a parent or guardian to a child upon the grounds and pursuant to the procedures set forth in title 36, chapter 1, part 1. [See above . § 36-1-113(g)(10).]	Termination of parental rights.	No.	Clear and convincing evidence. Tenn. Code Ann. § 36-1-113(c)(1) (Lexis current through the 2012 Reg. Sess.).	
Texas	Tex. Fam. Code Ann. § 161.007(1)-(3) (Lexis current through the 2011 First Called Sess.).	The court may order the termination of the parent-child relationship of a parent and a child if the court finds that: (1) the parent has been convicted of an offense committed under Section 21.02 [continuous sexual abuse of young child or children], 22.011 [sexual assault], 22.021 [aggravated sexual assault], or 25.02 [incest], Penal Code; (2) as a direct result of the commission of the offense by the parent, the victim of the offense became pregnant with the parent's child; and (3) termination is in the best interest of the child.	Termination of parental rights.	Yes.	Clear and convincing evidence. Tex. Fam. Code Ann. § 161.206(a) (Lexis current through the 2011 First Called Sess.).	An unpublished case held that the evidence was “factually and legally sufficient” to support a termination of a father’s parental rights because his sexual assault on the mother resulted in the child’s birth when the criminal judgment showed that the sexual assault occurred nine months before the birth, and genetic testing confirmed paternity. <i>See In re A.J.B.</i> , 2003 WL 21403480 (Tex. App. June 19, 2003).
Utah	Utah Code Ann. § 78B-6-111 (Lexis current through the 2012 Fourth Spec. Sess.).	A biological father is not entitled to notice of an adoption proceeding, nor is the consent of a biological father required in connection with an adoption proceeding, in cases where it is shown that the child who is the subject of the proceeding was conceived as a result of conduct which would constitute any sexual offense described in Title 76, Chapter 5, Part 4, regardless of whether the biological father is formally charged with or convicted of a criminal offense.	Adoption.	No.		
Vermont	None.					
Virginia	Va. Code Ann. § 63.2-1233(6) (Lexis current through the 2012 Reg. Sess., and 2012 Spec. Sess. I).	6. No consent [to adoption] shall be required from the birth father of a child . . . when such father is convicted of a violation of subsection A of § 18.2-61 [rape], § 18.2-63 [statutory rape], subsection B of § 18.2-366 [incest], or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of the proceedings under this section.	Adoption.	Yes.		
Washington	Wash. Rev. Code § 26.33.170(2)-(3) (Lexis current through 2012 Second Spec. Sess.).	(2) An alleged father's, birth parent's, or parent's consent to adoption may be dispensed with if the court finds that the proposed adoption is in the best interests of the adoptee and: . . . (b) The alleged father, birth parent, or parent has been found guilty of rape . . . or incest. . . , where the other parent of the adoptee was the victim of the rape or incest and the adoptee was conceived as a result of the rape or incest. (3) Nothing in this section shall be construed to eliminate the notice provisions	Adoption.	Yes.		

State	Statute(s)	Statutory Language	Type of Statute	Conviction Required?	Burden of Proof	Case Law
		of this chapter.				
West Virginia	None.					
Wisconsin	Wis. Stat. § 48.415(9)(a)-(b) (Lexis current through Act 113, dated Dec. 15, 2011).	<p>Grounds for termination of parental rights shall be one of the following: . . .</p> <p>(9). . . (a) Parenthood as a result of sexual assault, which shall be established by proving that the child was conceived as a result of a sexual assault. . . [.] Conception as a result of sexual assault as specified in this paragraph may be proved by a final judgment of conviction or other evidence produced at a fact-finding hearing under s. 48.424 indicating that the person who may be the father of the child committed, during a possible time of conception, a sexual assault as specified in this paragraph against the mother of the child.</p> <p>(b) If the conviction or other evidence specified in par. (a) indicates that the child was conceived as a result of [first or second degree sexual assault or sexual assault of a child placed in substitute care], the mother of the child may be heard on her desire for the termination of the fathers parental rights.</p>	Termination of parental rights.	No.	<p>Clear and convincing evidence. Wis. Stat. § 48.31(1) (Lexis current through Act 113, dated Dec. 15, 2011).</p> <p><i>See also In re Termination of Parental Rights to SuAnn</i>, 500 N.W.2d 649, 653 (Wis. 1993).</p>	<p>Statute authorizing termination of parental rights to a child conceived as a result of a sexual assault, Wis. Stat. § 48.415(9), did not apply to a mother who was convicted of having sex with a minor, in violation of Wis. Stat. § 948.02(2), which act resulted in the birth of a child. <i>In re Quianna M. M.</i>, 635 N.W.2d 907 (Wis. App. 2001).</p>
	Wis. Stat. § 48.42(2m)(a) (Lexis current through Act 113, dated Dec. 15, 2011).	(a). . . Except as provided in this paragraph, notice is not required to be given to a person who may be the father of a child conceived as a result of a sexual assault . . . if a physician attests to his or her belief that a sexual assault . . . has occurred or if the person who may be the father of the child has been convicted of sexual assault . . . which may have led to the child's conception. A person who under this paragraph is not given notice does not have standing to appear and contest a petition for the termination of his parental rights, present evidence relevant to the issue of disposition, or make alternative dispositional recommendations.	Termination of parental rights.	No.	Clear and convincing evidence. <i>See In re Termination of Parental Rights to SuAnn</i> , 500 N.W.2d 649, 653 (Wis. 1993).	
Wyoming	Wyo. Stat. Ann. § 1-22-110(a) (Lexis current through the 2012 Budget Sess. of the Legis.).	(a) In addition to the exceptions contained in W.S. 1-22-108 [Hearing on petition and objections; findings by court; effect of default], the adoption of a child may be ordered without the written consent of . . . the putative father if the court finds that the . . . the putative father . . . (viii) Caused the conception of the child born out of wedlock as a result of sexual assault or incest for which he has been convicted[.]	Adoption.	Yes.	Clear and convincing evidence. <i>In re CW</i> , 182 P.3d 501, 504 (Wyo. 2008).	